

§ 40.26

27 CFR Ch. I (4–1–08 Edition)

Product	Tax rate per pound* for removals during the years		
	1993 to 1999	2000 and 2001	2002 and after
Pipe tobacco	\$0.675	\$0.9567	\$1.0969
Roll-your-own tobacco	* No tax	0.9567	1.0969

* Prorate tax for fractions of a pound.

[T.D. ATF-420, 64 FR 71940, Dec. 22, 1999]

§ 40.26 Persons liable for tax.

The manufacturer of tobacco products shall be liable for the taxes imposed on tobacco products by 26 U.S.C. 5701: *Provided*, That when tobacco products are transferred in bond pursuant to 26 U.S.C. 5704, to the bonded premises of another such manufacturer or an export warehouse proprietor, the transferee shall become liable for the tax upon receipt by him of such products and the transferor shall thereupon be relieved of his liability for the tax. When tobacco products are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products, the transferee shall become liable for the tax on such products upon release from customs custody. Any person who possesses tobacco products in violation of 26 U.S.C. 5751(a)(1) or (2), shall be liable for a tax equal to the tax on such products.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1415, as amended, 1424, as amended (26 U.S.C. 5703, 5751))

[T.D. 6871, 31 FR 32, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55854, Sept. 28, 1979; T.D. ATF-232, 51 FR 28080, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]

§ 40.27 Assessment.

Whenever any person required by law to pay tax on tobacco products fails to pay such tax, the tax shall be ascertained and assessed against such person, subject to the limitations prescribed in 26 U.S.C. 6501. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after no-

tice has been afforded such person to show cause against assessment. The person will be allowed 45 days from the date of such notice to show cause, in writing, against such assessment.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1415, as amended (26 U.S.C. 5703))

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Subpart Ca—Special (Occupational) Taxes

SOURCE: T.D. ATF-271, 53 FR 17560, May 17, 1988, unless otherwise noted.

§ 40.31 Liability for special tax.

(a) *Manufacturer of tobacco products.* Every manufacturer of tobacco products shall pay a special (occupational) tax at a rate specified by § 40.32 of the part. The tax shall be paid on or before the date of commencing the business of manufacturing tobacco products, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a proprietor engaged in the business of manufacturing tobacco products on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.